

STATE ENGINEER

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It was therefore decided that each diversion shall be supplied by proper headgate and measuring device and Mr. Watson suggested that the parties diverting within the State of Utah have a meeting at which a committee be appointed to agree upon the priority and amount of water each water user or company of water users shall be entitled, as most of the water rights in this case are not adjudicated, to which Mr. Skeen added that when the courts are called upon to adjudicate the rights the agreement as to amount and priority arrived at by the water users will no doubt be used as a basis for adjudication, and I at once raised the question as to limit of amount of water to which each might lay claim to which question I received only a very terse, definite reply from Mr. Cotrell, "Beneficial Use" to which reply my reaction was that if the said water users so see fit they can divide the entire stream flow among themselves without regard as to quantity or the requirements and rights of water users within the State of Wyoming below the Utah-Wyoming State Line.



In the event that ~~XXXX~~ by such agreement, through lack of any apparent curb, excessive claims as to quantities used beneficially are made and the courts in adjudicating such rights should be guided by such unjust claims it is obvious that the water users along Burntfork diverting below the Utah-Wyoming State Line must cease to operate altho their priorities date back as early as A.D. 1871 as in this particular case the diversions within the State of Utah from Burntfork creek automatically become transmountain diversions as I opine 98 per cent of all return waters will flow in to Birch Creek a tributary to Henry's Fork Creek.

Naturally, all water users along Burntfork Creek diverting within the State Of Utah, having no limits placed upon them, will lay claim to all the water they can get, as for instance, when I stated that the State of Wyoming limits the use of water to one Cu.Ft. for seventy acres one of the Utah irrigators proclaimed that he has a twenty acre tract on which he uses that amount, and among such claimants, no doubt, will be the water users irrigating Wyoming lands under inter-state diversions in which case we are again confronted with a conflict of the laws of Utah and Wyoming, we of Wyoming being forced to <sup>pay</sup> for any waters in excess of one Cu.Ft. per second for seventy acres as illegal diversion and to compel the water user to return said excess waters to the stream from which diverted, when such waters enter the State of Wyoming even tho in a ditch and legally diverted in Utah.

Under such procedure the parties irrigating lands in Wyoming under interstate diversions will have the excess waters taken from them whereas their neighbors with whom the agreement was completed will have their rights, as claimed, fully satisfied.

Respectfully submitted,

*Signed: Emil C. Gradert.*

Emil C. Gradert.  
Superintendent, Water Division No. 4